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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,546	08/25/2003	John J. Romano	P659	3099

7590 02/10/2005
Armand M. Vozzo, Jr., Esquire
19 Short Road
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EXAMINER

PAHNG, JASON Y

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,546

Applicant(s)

ROMANO, JOHN J.

Examiner

Jason Y Pahng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the abstract may not exceed 150 words in length, as required by 37 CFR 1.72(b). Correction is required.

The disclosure is objected to because of the following informalities: There appears to be a typographical error. On page 12, line 6, "keyway opening 30b" should be corrected to "keyway opening 50b".

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6 and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim 2, line 6, it is not clear which direction is the "rearwardly" of the panel.

With regard to claim 13, line 4, it is not clear which side is the "interior side" of the panel.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Gage (US 751,159).

With regard to claims 1 and 19, Gage discloses a manual grating device including:

1. a housing member (11, 12, 13) with an open compartment (19);
2. a processing plate member (29);
3. a spring-loaded lever means (17); and
4. a spring-loaded press means (23).

With regard to claim 10, Gage discloses a cutting surface (29) which is selectively determined.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 7-13, 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romano (US 6,409,107) in view of Welke (US 774,217).

With regard to claims 1, 11, and 19, Romano discloses substantially all of the claimed structure including:

1. a housing member with an open compartment (Figure 2);
2. a processing plate member (Figure 4);
3. a spring-loaded lever means (94);
4. a press means (76); and
5. regarding claim 11, a chamber (inside 38) for the housing member.

However, Romano's press means is not spring-loaded. In a closely related art, Welke discloses a grating device with a spring-loaded press means (E, G) in order to automatically press the material to be grated. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Romano with a spring-loaded press means in order to automatically press the material to be grated, as taught by Welke.

With regard to claims 2 and 12-13, as well as can be understood, Romano discloses a recess section (which is contacted by 87, Figure 2), but does not disclose a slot for the spring. In a closely related art, Welke discloses a slot (Figure 2) in order to allow a spring (G) to slide along. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Romano with a slot in order to allow a spring to slide along, as taught by Welke. Regarding 12, Romano discloses a

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penal member (a side wall of 32) positioned between the open compartment (32) from the chamber (inside 38).

With regard to claims 7 and 15, Romano discloses a second spring member (130) which bias the tapered tip (128) into operative engagement with the processing plate.

With regard to claims 8 and 16, Romano discloses a first spring (94) which is a torsion spring and a second spring (130) which is a leaf spring.

With regard to claims 9 and 17, Romano discloses a keyway opening (90).

With regard to claims 10 and 18, Romano discloses a cutting surface (Figure 4) which is selectively determined.

Allowable Subject Matter

Claims 3-6 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to overcome the 35 U.S.C. 112 rejection including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y Pahnng whose telephone number is 571 272 4522. The examiner can normally be reached on 9:00 AM - 7:00 PM, Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571 272 4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JYP


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